

3983. Adulteration and misbranding of compound catsup. U. S. v. Frederick W. Stute et al. (Stute & Co.). Plea of guilty. Fine, \$20. (F. & D. No. 6128. I. S. No. 8517-e.)

On April 16, 1915, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Frederick W. Stute and George Van Ronzelen, copartners, trading under the firm name of Stute & Co., St. Louis, Mo., alleging shipment by said defendants, in violation of the Food and Drugs Act, on or about March 25, 1913, from the State of Missouri into the State of Illinois, of a quantity of so-called compound catsup, which was adulterated and misbranded. The product was labeled: "Compound Catsup Stute & Co. St. Louis, Mo. Preserved with 1-10 of 1 per cent. of Benzoate of Soda."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that a large part of the coloring present was due to a coal-tar dye, Ponceau 3 R, also called Cumidine Red. After removal of dye by transferring to wool, the sample became a dull brownish shade. Tomato color was present, but only in small amount. The presence of 0.23 per cent by weight of sodium benzoate was also indicated. Microscopical examination of the sample of the product by said bureau showed the following results: Yeasts and spores per one-sixtieth cubic millimeter, about 50; bacteria per cubic centimeter, about 250,000,000; and mold filaments in 14 per cent of the microscopic fields; and that said product was excessive in bacteria and contained a considerable amount of cooked starchy material which appears to be corn meal, and also contained an apple product.

Adulteration of the article was alleged in the information for the reason that it consisted in whole or in part of a decomposed vegetable matter; further, in that a mixture consisting of tomatoes, corn meal, apples, and spices had been substituted wholly for catsup, which the article purported to be; and, further, in that it was artificially colored in a manner to simulate the appearance of genuine catsup and in a manner whereby its inferiority was concealed.

Misbranding was alleged for the reason that the statement "Compound Catsup," borne on the label attached to the bottle, was false and misleading in that it purported and represented that the article was catsup, to wit, an article composed of tomatoes and spices, whereas, in truth and in fact, it was not catsup, but was an artificially colored mixture, composed essentially of tomatoes, spices, and other substances not normal ingredients of catsup, to wit, apples and corn meal; further, in that it was offered for sale and sold under the distinctive name of another article, to wit, catsup, whereas, in truth and in fact, it was not catsup, but was an artificially colored mixture composed essentially of tomatoes, spices, and other substances not normal ingredients of catsup, to wit, apples and corn meal; further, in that it was labeled "Compound Catsup" so as to deceive and mislead the purchaser into the belief that it was catsup, to wit, an article composed of tomatoes and spices, whereas, in truth and in fact, it was not catsup, but was an artificially colored mixture composed essentially of tomatoes, spices, and other substances not normal ingredients of catsup, to wit, apples and corn meal; and, further, in that the statement, to wit, "1-10 of 1 per cent. of Benzoate of Soda," borne on the label attached to the bottle containing the article, was false and misleading in that it purported and represented that the article contained one-tenth of 1 per centum of benzoate of soda, whereas, in truth and in fact, it contained a greater amount, to wit, 0.23 per centum of benzoate of soda.

On April 30, 1915, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$10 and costs under each count of the information, making an aggregate fine imposed of \$20.

C. F. MARVIN, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., *July 19, 1915.*